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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.			WOOD, WILLIAM H		
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			2124	12 2 13	
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Please find below and/or attached an Office communication concerning this application or proceeding.

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	Application N .	Applicant(s)	7		
	09/522,510	WU, YOUFENG			
Offic Action Summary	Examiner	Art Unit			
	William H. Wood	2124			
The MAILING DATE f this communication app Period f r Reply	ears n the cov r sheet with the d	orrespondence address			
A SHORTENED STATUTORY PERIOD FOR REPLY THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a reply If NO period for reply is specified above, the maximum statutory period we Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	36(a). In no event, however, may a reply be ting within the statutory minimum of thirty (30) day will apply and will expire SIX (6) MONTHS from a cause the application to become ABANDONE	mely filed /s will be considered timely. Ithe mailing date of this communication. ED (35 U.S.C. § 133).			
Status					
1) Responsive to communication(s) filed on 15 De	ecember 2003.				
2a) ☐ This action is <b>FINAL</b> . 2b) ☑ This	action is non-final.				
3) Since this application is in condition for allowan	nce except for formal matters, pro	osecution as to the merits is			
closed in accordance with the practice under E	x parte Quayle, 1935 C.D. 11, 49	53 O.G. 213.			
Disposition of Claims					
4) Claim(s) 3-35 is/are pending in the application.					
4a) Of the above claim(s) is/are withdraw	vn from consideration.				
5) Claim(s) is/are allowed.					
6) Claim(s) is/are rejected.					
7) Claim(s) is/are objected to.					
8) Claim(s) are subject to restriction and/or	election requirement.		,		
Application Papers					
9)☐ The specification is objected to by the Examiner					
10) The drawing(s) filed on is/are: a) □ acce	epted or b) objected to by the	Examiner.			
Applicant may not request that any objection to the o	• • • • • • • • • • • • • • • • • • • •				
Replacement drawing sheet(s) including the correcti  11) The oath or declaration is objected to by the Extended to the second of the correction of the corre		` ` `	÷		
Priority under 35 U.S.C. § 119			-		
<u> </u>	priority under 35 LLS C & 110/a	\ (d\ or (f)			
12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of:		)-(a) or (t).			
1. Certified copies of the priority documents		ion No			
<ul><li>2. Certified copies of the priority documents</li><li>3. Copies of the certified copies of the prior</li></ul>					
application from the International Bureau	<u>-</u>	su iii tiiis National Stage			
* See the attached detailed Office action for a list of	, , , ,	ed.			
	•				
Attachment(s)					
1) Notice of References Cited (PTO-892)	4) 🔀 Interview Summary Paper No(s)/Mail Da				
<ul> <li>2) Notice of Draftsperson's Patent Drawing R view (PTO-948)</li> <li>3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)</li> </ul>	5) Notice of Informal P	Pat nt Application (PTO-152)			
Paper No(s)/Mail Date	6) Other:				

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#### **DETAILED ACTION**

Claims 3-35 are pending and have been examined.

#### Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 15 December 2003 has been entered.

## Claim Rejections - 35 USC § 112

- The following is a quotation of the second paragraph of 35 U.S.C. 112:
   The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
- 3. Claims 3-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 3 recites the limitation "the software" in line 5 of the claim. There is insufficient antecedent basis for this limitation in the claim. Possible solutions include amendments to the preamble including "profiling software" and to the limitation identifying a region "within the software".
- 4. Claims 3-35 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: Claim 3 recites

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"candidate reuse region", however there is no context as to what this refers.

Additionally, claim 3 refers to an "input set" and "input registers", yet it is unclear how these relate to a candidate reuse region or software in general. Possible solutions include amendments to the preamble including "profiling software" and to the limitation identifying a region "within the software". Also, limitations relating the input registers to input data values of the region could be useful in clarification.

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- 5. Claims 3-35 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps (in claim 3) are: inserting instructions to the index into a data structure of profile indicators using the single value. This step is required in order to make use of the combining step (Specification: page 8, lines 15-20; page 9, lines 15-20; and page 13, line 23 to page 14, line 4).
- 6. Additional independent claims contain similar flaws.
- 7. Claims 23-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 23 recites the limitation "the location-values" in line 4. There is insufficient antecedent basis for this limitation in the claim. The limitation will therefore be interpreted as "storing an occurrence frequency of the top set-values".

Claim R jections - 35 USC § 102

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8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 9. Claim 11 is rejected under 35 U.S.C. 102(b) as being anticipated by **Keller** et al. (USPN 5,355,487).

## Claim 11

**Keller** disclosed a computer-implemented method comprising:

- periodically sampling a set of registers to obtain register values (column 9, lines 11-31; PID, SID and address);
- determining an occurrence frequency of the register values (column 9, lines
   11-31; profiling and incrementing count value in hash table);
- combining the register values into a single set-value (column 9, lines 11-31;
   key to hash table is function of PID, SID and address); and
- storing the occurrence frequency and the single set-value in a data structure (column 9, lines 11-31; accessing the hash table).
- 10. Claims 16-17 and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Calder** et al., "Value Profiling and Optimization".

Claim 16

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Calder disclosed a computer-implemented method comprising:

identifying a candidate load instruction (page 16, first sentence of section 6);

instrumenting (page 11, last paragraph) the software to sample a location-

value every S occurrences of the candidate load instruction (page 20, first full

paragraph);

• storing an occurrence frequency of the location-values into a data structure

(page 16-23, section 6); and

executing the software (page 11, section 4).

Claim 17

Calder disclosed the computer-implemented method of claim 16 wherein instrumenting

comprises:

inserting instructions in the software to count the number of times each location-value is

sampled (page 20, second full paragraph); and

inserting instructions in the software to keep track of top location-values (pages 5-11,

section 3).

Claim 20

Calder disclosed the computer-implemented method of claim 17 wherein inserting

instructions to keep track of top location-values includes inserting sampling instructions

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configured to profile the top N occurrences of location-values, where N is an integer (pages 5-11, section 3).

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## Claims 21 and 22

The limitations of claims 21 and 22 correspond to claims 16 and 17 and thus are rejected in the same manner.

11. Claims 23 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Connors** et al., "Compiler-Directed Dynamic Computation Reuse: Rationale and Initial Results".

# Claims 23

Connors disclosed a computer-implemented method comprising:

- selecting reuse regions within a software program (page 164, section 4), the selecting including,
  - profiling top (page 165, right column, third full paragraph) set-values for candidate reuse regions to produce a probability of top set-values (page 158, section 1; and page 162-163, section 3.1; page 164, section 4.2; page 165, right column, third full paragraph, top k detections);
  - storing an occurrence frequency of the location-values [set-values] into a data structure (page 162-163, section 3.1); and

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selecting reuse regions as a function of the probability of set-values (pages
 164-166, section 4.2-4.4).

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#### Claim 27

The limitations of claim 27 correspond to claim 23 and thus are rejected in the same manner.

# Claim Rejections - 35 USC § 103

- 12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 13. Claims 3, 5-10, 12, 14-15, 30-31, 33 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Connors** et al., "Compiler-Directed Dynamic Computation Reuse: Rationale and Initial Results" in view of **Feller et al.**, "Value Profiling" and in further view of **Keller** et al. (USPN 5,355,487).

## Claim 3

Connors disclosed a computer-implemented method (page 158, abstract) comprising:

- identifying a candidate reuse region (page 164, section 4);
- determining an input set for the candidate reuse region, wherein the input set comprises a plurality of input registers (page 162-163, section 3.1);

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to profile set-values for the input set (page 159, left column, first full
paragraph), wherein each set-value comprises an input register value for
each of the plurality of input registers (page 162-163, section 3.1);

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• executing the instrumented software (page 158, abstract).

Connors did not explicitly state *instrumenting*. Feller demonstrated that it was known at the time of invention to utilize instrumentation for profiling (page 262, left column, last paragraph). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the profiling system of Connors with instrumentation as found in Feller's teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to make use of common (and therefore easily used) tool/method for gathering profiles of a system (additionally, Connors explicitly points to using Feller's techniques; page 159, first full paragraph, left column).

Connors did not state for each set-value, combining each of the input register values into a single value. In the analogous profiling art, Keller, it was demonstrated that it was known at the time of invention to utilize combining values into a single value (column 9, lines 11-31; "The key to the table is a functions of ..."). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the profiling system of Connors with combining register values into a single value as suggested by Keller's teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to store profile information

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about the reuse regions of code in an efficient use of memory (**Keller**: column 9, lines 13-17; using a key or "single value" to access a hash table of profiled heuristics).

Claim 5

Connors, Feller and Keller disclosed the computer-implemented method of claim 3 wherein instrumenting comprises inserting instructions to periodically sample set-values (as above for claim 1).

Claim 6

Connors, Feller and Keller disclosed the computer-implemented method of claim 5 wherein the input-set comprises a plurality of input registers, and each set-value comprises an input register value for each of the plurality of input registers (as above under claim 1), and wherein instrumenting further comprises:

- inserting instructions to combine each of the input register values into a single value (as above under claim 1); and
- inserting instructions to index into a data structure of profile indicators using the single value (Keller: column 9, lines 17-20).

Claim 7

**Connors**, **Feller** and **Keller** disclosed the computer-implemented method of claim 5 wherein instrumenting further comprises:

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• inserting instructions to profile the top N occurring set-values (*Connors: page* 159, left column, last full paragraph; page 165, right column, third full paragraph, top k; *Feller:* page 262, left column, last paragraph), where N is chosen as a function of an expected number of reuse instances (*Feller: page* 259, left column, last paragraph).

## Claim 8

Connors, Feller and Keller disclosed the computer-implemented method of claim 3 further comprising selecting the candidate reuse region as a computation reuse region (Connors: page 165, section 4.3).

## Claims 9 and 10

The limitations of claims 9 and 10 correspond to claims 3 and 5 and thus are rejected in the same manner.

#### Claim 12

**Keller** did not explicitly state the computer-implemented method of claim 11 wherein periodically sampling comprises:

 sampling a plurality of registers to obtain a set-value every S occurrences of a candidate reuse region, where S is a sampling period.

Connors demonstrated that it was known at the time of invention to profile set-values for candidate reuse regions (page 162-163, section 3.1; page 164, section 4). It would

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have been obvious to one of ordinary skill in the art at the time of invention to implement the analogous prior art profiling system of **Keller** with reuse regions as found in **Connors**' teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to aiding software and processor performance through the reuse of computation results (**Connors**: page 158, left column, section 1).

Feller demonstrated that it was known at the time of invention to sample based on a sampling period during profiling (page 266-267, section 7). It would have been obvious to one of ordinary skill in the art at the time of invention to implement the profiling system of Keller and Connors with periodic sampling as found in Feller's teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to only profiling as long as necessary (Feller: page 267, left column, first full paragraph).

## Claim 14

**Keller, Connors** and **Feller** disclosed the computer-implemented method of claim 12 wherein storing comprises:

- accessing a record in the data structure as a function of the set-value (Keller: column 9, lines 11-31; "The key to the table is a functions of ..."); and
- incrementing a profile indicator at the record (Connors: alters the record accordingly or else would be useless).

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## Claim 15

Keller, Connors and Feller disclosed the computer-implemented method of claim 12:

i) wherein periodically sampling further comprises sampling set-values in the plurality of registers at the beginning of a candidate reuse region (*Connors*: page 165-166, sections 4.3 and 4.4; Connors describes determining the entry points into the reuse region and needing to profile them)

(Connors: page 162, first paragraph in section 3.1)

## Claims 30-31

The limitations of claims 30-31 correspond to claims 3 and 5 and thus are rejected in the same manner.

#### Claim 33

The limitations of claim 33 correspond to claims 11 and 12 and thus are rejected in the same manner. Additionally, **Connors** disclosed top set-values (page 165, right column, third full paragraph) and **Feller** disclosed top set-values (page 259, right column, second paragraph).

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Claim 35

The limitations of claim 35 correspond to claim 14 and thus are rejected in the same

manner.

14. Claims 4 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Connors et al., "Compiler-Directed Dynamic Computation Reuse: Rationale and Initial

Results" in view of Feller et al., "Value Profiling" and in further view of Keller et al.

(USPN 5,355,487) an in further view of "Dictionary of Computing".

Claim 4

Connors, Feller and Keller did not explicitly state the computer-implemented method

of claim 3 wherein combining comprises:

folding each of the input register values to create folded values; and

concatenating the folded values.

Computing demonstrated that it was known at the time of invention to utilize folding

and hashing using a key value (page 196 and 221; folding and hashing). It would have

been obvious to one of ordinary skill in the art at the time of invention to implement

Connors', Feller's and Keller's system with folding and hashing as found in

Computing's teaching. This implementation would have been obvious because one of

ordinary skill in the art would be motivated to use simple direct and quick methods to

access information.

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Claims 32

The limitations of claim 32 correspond to claim 4 and thus are rejected in the same

manner. An exclusive-or operation relates to claim 4's folding and concatenating.

15. Claims 13 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Connors et al., "Compiler-Directed Dynamic Computation Reuse: Rationale and

Initial Results" in view of Feller et al., "Value Profiling" and in further view of Keller et al.

(USPN 5,355,487) as applied to claim 12 and in further view of Chang (USPN

5,933,628).

Claim 13

Keller, Connors and Feller did not explicitly state the computer-implemented method

of claim 12 further comprising:

i) identifying a group of control equivalent candidate region entries and candidate

load instructions

ii) inserting instructions prior to the group, wherein the instructions set a predicate

register every S occurrences

inserting profiling instructions at each of the control equivalent candidate region

entries and candidate load instructions, wherein the profiling instructions are

predicated on the predicate register

Chang demonstrated that it was known at the time of invention to use predicate

registers for decision control as in item iii) (Chang: column 5, line 52 to column 6, line

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18). It would have been obvious to one of ordinary skill in the art at the time of invention to implement Keller, Connors and Feller's sampling and profiling of reuse regions system with predicate registers utilized by code as found in Chang's teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to reduce the amount of branches in the code and thus speed up and lineate the whole operation. Official Notice is taken that it was known at the time of invention to instrument code as little as possible and hence use a small section of instrumentation code for multiple regions of the to be observed code, where possible as in item i) and ii). Thus, It would have been obvious to one of ordinary skill in the art at the time of invention to implement Keller, Connors and Feller's sampling and profiling of reuse regions system with functionality to insert small amounts of instrumentation code which could observe several regions of the observable code. This implementation would have been obvious because one of ordinary skill in the art would be motivated to reduce the amount of damaging additional instrumentation code, and thus improve the efficiency of the profiling operation by allowing the overall code to behave as closely as possible to the original uninstrumented code. S occurrences is met in the same way as in claim 12.

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#### Claim 34

The limitations of claim 34 correspond to claim 13 and thus are rejected in the same manner.

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16. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Calder** et al., "Value Profiling and Optimization" in view of **Chang** (USPN 5,933,628).

#### Claim 18

Calder did not explicitly state the computer-implemented method of claim 16 further comprising:

- i) identifying a group of control equivalent candidate region entries and candidate load instructions
- ii) inserting instructions prior to the group, wherein the instructions set a predicate register every S occurrences
- iii) inserting profiling instructions at each of the control equivalent candidate region entries and candidate load instructions, wherein the profiling instructions are predicated on the predicate register

Chang demonstrated that it was known at the time of invention to use predicate registers for decision control (Chang: column 5, line 52 to column 6, line 18). It would have been obvious to one of ordinary skill in the art at the time of invention to implement Calder's sampling and profiling of reuse regions system with predicate registers utilized by code as found in Chang's teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to reduce the amount of branches in the code and thus speed up and lineate the whole operation. Official Notice is taken that it was known at the time of invention to instrument code as little as possible

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and hence use a small section of instrumentation code for multiple regions of the to be observed code, where possible as in item i) and ii). Thus, It would have been obvious to one of ordinary skill in the art at the time of invention to implement **Calder**'s sampling and profiling of reuse regions system with functionality to insert small amounts of instrumentation code which could observe several regions of the observable code. This implementation would have been obvious because one of ordinary skill in the art would be motivated to reduce the amount of damaging additional instrumentation code, and thus improve the efficiency of the profiling operation by allowing the overall code to behave as closely as possible to the original uninstrumented code. S occurrences is met in the same way as in claim 12.

#### Claim 19

Calder disclosed the computer-implemented method of claim 17 wherein the candidate region includes a plurality of candidate load instructions (as above). Calder did not explicitly state each of the plurality of load instructions being predicted on a common predicate register. Chang demonstrated that it was known at the time of invention to use predicate registers for decision control (Chang: column 5, line 52 to column 6, line 18). It would have been obvious to one of ordinary skill in the art at the time of invention to implement Calder's sampling and profiling of reuse regions system with predicate registers utilized by code as found in Chang's teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to reduce the amount of branches in the code and thus speed up and lineate the whole operation.

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17. Claims 24-26 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Connors et al., "Compiler-Directed Dynamic Computation Reuse: Rationale and

Initial Results" in view of Keller et al. (USPN 5,355,487).

Claim 24

Connors did not explicitly state the computer-implemented method of claim 23 wherein

profiling set-values comprises:

representing each top set-value as a single value; and

accessing a data structure as a function of the single value to modify a profile

indicator.

In the analogous profiling art, **Keller**, it was demonstrated that it was known at the time

of invention to utilize combining values into a single value (column 9, lines 11-31; "The

key to the table is a functions of ..."). It would have been obvious to one of ordinary skill

in the art at the time of invention to implement the profiling system of Connors with

combining register values into a single value as suggested by Keller's teaching. This

implementation would have been obvious because one of ordinary skill in the art would

be motivated to store profile information about the reuse regions of code in an efficient

use of memory (Keller: column 9, lines 13-17; using a key or "single value" to access a

hash table of profiled heuristics).

Claim 25

Connors and Keller disclosed the computer-implemented method of claim 24, wherein

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accessing a data structure comprises accessing a data structure at least as large as a

number of expected reuse instances (Connors: page 162-163, section 3.1).

Claim 26

Connors and Keller disclosed the computer-implemented method of claim 25 wherein

selecting comprises marking as reuse regions those candidate reuse regions having a

finite number of top set-values that have a probability of occurrence greater than a

threshold (Connors: page 165, right column, third full paragraph, top k account for a

large fraction).

Claim 28

The limitations of claim 28 correspond to claim 24 and thus are rejected in the same

manner.

18. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Connors et al., "Compiler-Directed Dynamic Computation Reuse: Rationale and Initial

Results" in view of Feller et al., "Value Profiling".

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Claim 29

Connors and Keller did not explicitly state the machine-readable medium of claim 27

further comprising:

• identifying a candidate load instruction within the candidate reuse region

(Connors: page 165, right column, third full paragraph); and

to profile location-values for the candidate load instruction (Connors: page

165, right column, third full paragraph).

Connors did not explicitly state instrumenting. Feller demonstrated that it was known

at the time of invention to utilize instrumentation for profiling (page 262, left column, last

paragraph). It would have been obvious to one of ordinary skill in the art at the time of

invention to implement the profiling system of Connors with instrumentation as found in

**Feller's** teaching. This implementation would have been obvious because one of

ordinary skill in the art would be motivated to make use of common (and therefore easily

used) tool/method for gathering profiles of a system (additionally, Connors explicitly

points to using Feller's techniques; page 159, first full paragraph, left column).

Response to Arguments

19. Applicant's arguments with respect to claims 3-35 have been considered but are

moot in view of the new ground(s) of rejection.

20. Applicant's arguments filed 15 December 2003 have been fully considered but

they are not persuasive.

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#### Correspondence Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Wood whose telephone number is (703)305-3305. The examiner can normally be reached 7:30am - 5:00pm Monday thru Thursday and 7:30am - 4:00pm every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (703)305-9662. The fax phone numbers for the organization where this application or proceeding is assigned are (703)746-7239 for regular communications and (703)746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

William H. Wood March 5, 2004

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KAKALI CHAKI SUPERVISORY PATENT EXAMINER TECHNOLOGY CENTER 2100